

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

MICHAEL P. BISCHOFF,

Petitioner,

vs.

CASE NO. 04-74383  
HON. LAWRENCE P. ZATKOFF  
MAGISTRATE JUDGE PAUL J. KOMIVES

UNITED STATES OF AMERICA,

Respondent.

---

**OPINION AND ORDER ADOPTING, IN PART,  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner filed a Motion to Vacate, Set Aside, or Correct his sentence pursuant to 28 U.S.C. § 2255 on November 10, 2004. Respondent filed a response brief. This matter is currently before the Court on Magistrate Judge Komives's Report and Recommendation of May 11, 2005, in which the Magistrate Judge recommends that the Motion should be denied.<sup>1</sup> Petitioner filed an objection to the Report and Recommendation, styled as a Motion for En Banc Review of Report and Recommendation.<sup>2</sup>

The Court has undertaken a thorough review of the court file, the Report and Recommendation, and the objection to the Magistrate Judge's Report and Recommendation filed by Petitioner. As a result of that review, the Court adopts the Recommendation denying Petitioner's Motion to Vacate, Set Aside, or Correct his sentence. In addition, the Court adopts all portions of

---

<sup>1</sup>An amended Report and Recommendation, correcting a typological error, was filed on November 3, 2005.

<sup>2</sup>Appearing as Docket #171 of the criminal case 95-80889.

the Report except for II.C.2.c., pertaining to one of Petitioner's claims of ineffective assistance of counsel. The Court does not find it necessary to determine whether Petitioner waived his right to appeal his sentence, because, as detailed in the Magistrate's Report, there are no grounds to vacate, set aside, or correct Petitioner's sentence.

Therefore, IT IS HEREBY ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct his sentence is DENIED.

s/Lawrence P. Zatkoff  
LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: November 10, 2005

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on November 10, 2005.

s/Marie E. Verlinde  
Case Manager  
(810) 984-3290